UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,325	12/05/2003	Subhash Chopra	FHW-130	5071

27572 7590 07/02/2007

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER	
ENGLAND, DAVID E	

ART UNIT	PAPER NUMBER
2143	

MAIL DATE	DELIVERY MODE
07/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/731,325	CHOPRA ET AL.	
	Examiner	Art Unit	
	David E. England	2143	V

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 January 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *12/05/2003,02/14/2006*.PC
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DL

DETAILED ACTION

1. Claims 1 – 20 are presented for examination.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Estberg et al. U.S. Patent No. 6148337, (hereinafter Estberg).

4. As per claim 1, as closely interpreted by the Examiner, Estberg teaches data acquisition, storage and delivery apparatus, comprising a networked computing means on which is provided:

5. an acquisition agent with access to usage data from a plurality of different communications resources, (e.g., col. 12, line 66 – col. 13, line 29, *"Poller 226, Status Manager 225"*);

6. a storage agent arranged to store communications usage data from the said plurality of communications resources, (e.g., col. 13, line 30 – col. 14, line 16, *"RTR, Poller and Status Manager"*); and

7. a delivery agent arranged to deliver communications usage data to a subscribing management system, (e.g., col. 13, line 30 – col. 14, line 16, *"RTR, Poller and Status Manager"*), wherein

8. said usage data is delivered immediately to said subscribing management system, (e.g., col. 13, line 30 – col. 14, line 16, *"RTR, Poller and Status Manager"*).

9. As per claim 3, as closely interpreted by the Examiner, Estberg teaches wherein the usage data is retained for a configurable period of time, (e.g., col. 13, lines 30 – 41, *"once per day"* When updating the current file you are only keeping the current data for a specific amount of time.).

10. Claims 6, 8 and 9 are rejected for similar reasons stated above.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12. Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Estberg as applied to the independent claims above and in view of Miloslavsky et al.

(6981020), (hereinafter Miloslavsky) in further view of Cravo De Almeida et al. (2003/0055931), (hereinafter Cravo).

13. As per claim 2, as closely interpreted by the Examiner, Estberg teaches the communications resources are selected from a group in a telephone service provider's public network, (e.g., col. 4, lines 11 – 37), which is well known in the art to.

14. Examiner takes Official Notice (see MPEP § 2144.03) that "monitoring devices commonly found in a network and/or on the Internet from a group of have IP telephony systems, email servers, proxy servers, firewalls, switches, routers, web servers " in a computer networking environment was well known in the art at the time the invention was made. The Applicant is entitled to traverse any/all official notice taken in this action according to MPEP § 2144.03, namely, "if applicant traverses such an assertion, the examiner should cite a reference in support of his or her position". However, MPEP § 2144.03 further states "See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice)." Specifically, In re Boon, 169 USPQ 231, 234 states "as we held in Ahlert, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or repute of the reference cited in support of the assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed". Further note that 37 CFR § 1.671(c)(3) states "Judicial notice means official notice". Thus, a traversal by the Applicant that is merely "a bald challenge, with nothing more" will be given very little weight.

15. Estberg does not explicitly stated PBX telephone systems and mobile telephony.

16. Miloslavsky teaches the resources being PBX telephone systems, (e.g., col. 5, line 55 – col. 6, line 10). Cravo teaches monitoring mobile telephony networks, (e.g., ¶ 0036). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Miloslavsky and Cravo with Estberg because monitoring a plurality of commonly found attributes in a network or the Internet would allow the users that have access to the monitored status of all different protocols or resources found on most networks and/or the Internet.

17. Claim 7 is rejected for similar reasons as stated above.

18. Claims 4, 5, 10, 11, 13 – 16 and 18 – 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Estberg as applied to the independent claims above, and in view of Shah et al. (6678835), (hereinafter Shah).

19. As per claim 4, as closely interpreted by the Examiner, Estberg does not specifically teach the usage data is retained for up to a configurable data file size. Shah teaches the usage data is retained for up to a configurable data file size, (e.g., col. 19, lines 12 – 30). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Shah with Estberg because it is well known in the art that there is a finite amount of memory space in any computer system and if there is no room in memory to store information then the system can no longer collect important information and store it. Therefore it would be

advantages to move information from one node to the other so that the main storage memory can free up space to collect more information, i.e., up-to-date monitoring information.

20. As per claim 5, as closely interpreted by the Examiner, Estberg does not specifically teach wherein the usage data is retained when the communications link fails. Shah teaches wherein the usage data is retained when the communications link fails, (e.g., col. 22, line 40 – col. 23, line 17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Shah with Estberg because monitoring links in a system for failures allows the system to quickly attend to the failures and resolve them by utilizing backup links. This also allows the system to have smaller amounts of delays in transmitting information because of the backing up of links when one is down.

21. Claims 10, 11, 13 – 16 and 18 – 20 are rejected for similar reasons stated above.

22. **Claims 12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Estberg and Shah as applied to the independent claims above, and in view of Miloslavsky and Cravo.**

23. The teachings of claims 12 and 17 can be found in similar areas as claims 1, 2 and 11 and are therefore rejected for similar reasons.

Conclusion

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

25. a. Fletcher et al. U.S. Patent No. 6085243 discloses Distributed remote management (dRMON) for networks.

26. b. Kekic et al. U.S. Patent No. 5999179 discloses Platform independent computer network management client.

27. c. Gupta et al. U.S. Patent No. 6374305 discloses Web applications interface system in a mobile-based client-server system.

28. d. Reichman U.S. Patent No. 6738813 discloses System and method for monitoring performance of a server system using otherwise unused processing capacity of user computing devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David E. England whose telephone number is 571-272-3912. The examiner can normally be reached on Mon-Thur, 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

David E. England
Examiner
Art Unit 2143

DE DL

DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100